

EP-6374

Please print or type. (Form designed for use on elite (12-pitch) typewriter.)

Form Approved. OMB No. 2050-0039

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|--|---|--|--|---|--|----------------------------|-----------------|-------|
| UNIFORM HAZARDOUS WASTE MANIFEST | | 1. Generator ID Number MER000018529 | 2. Page 1 of 1 | 3. Emergency Response Phone 877-846-0447 | 4. Manifest Tracking Number 003974029 JJK | | | |
| 5. Generator's Name and Mailing Address HRC Village at Little Falls LLC 100 Commercial St. Portland ME 04101 Generator's Phone: 207-832-4122 | | | Generator's Site Address (if different than mailing address) 7 Depot St. South Windham, ME 04062 | | | | | |
| 6. Transporter 1 Company Name Pentatech | | | U.S. EPA ID Number MER000000595 | | | | | |
| 7. Transporter 2 Company Name | | | U.S. EPA ID Number | | | | | |
| 8. Designated Facility Name and Site Address GWM Chemical Services, LLC 1530 Sander Road Mason City, NY 14107 Facility's Phone: 716-754-3231 | | | U.S. EPA ID Number NY00049336579 | | | | | |
| GENERATOR | 9a. HM | 9b. U.S. DOT Description (including Proper Shipping Name, Hazard Class, ID Number, and Packing Group (if any)) | 10. Containers No. Type | | 11. Total Quantity | 12. Unit WL/Vol. | 13. Waste Codes | |
| | X | 1. RD. UN3492, Waste Polymers, Solid Residue, 3. III EP04 171 | 601 CM | | 57 | 1500L | 4 | 3-002 |
| | | 2. | | | | | | |
| | | 3. | | | | | | |
| | | 4. | | | | | | |
| 14. Special Handling Instructions and Additional Information 1. To rail off with PCRG Profile #11/300759 Out of Service Date 6-14-10 SR #433322-3 81640506 UUCD 8836K | | | | | | | | |
| 15. GENERATOR'S/OFFEROR'S CERTIFICATION: I hereby declare that the contents of this consignment are fully and accurately described above by the proper shipping name, and are classified, packaged, marked and labeled/placarded, and are in all respects in proper condition for transport according to applicable international and national governmental regulations. If export shipment and I am the Primary Exporter, I certify that the contents of this consignment conform to the terms of the attached EPA Acknowledgment of Consent. I certify that the waste minimization statement identified in 40 CFR 262.27(a) (if I am a large quantity generator) or (b) (if I am a small quantity generator) is true. | | | | | | | | |
| Generator's/Offeror's Printed/Typed Name Stephen A Etzel | | | Signature | | | Month Day Year 06 24 10 | | |
| TRANSPORTER | 16. International Shipments <input type="checkbox"/> Import to U.S. <input type="checkbox"/> Export from U.S. Port of entry/ext: _____ Transporter signature (for exports only): _____ Date leaving U.S.: _____ | | | | | | | |
| | 17. Transporter Acknowledgment of Receipt of Materials Transporter 1 Printed/Typed Name ROBERT SILLSBY Signature | | | | | | | |
| DESIGNATED FACILITY | 18. Discrepancy 18a. Discrepancy Indication Space <input checked="" type="checkbox"/> Quantity <input checked="" type="checkbox"/> Type ADD 8007 <input type="checkbox"/> Residue <input type="checkbox"/> Partial Rejection <input type="checkbox"/> Full Rejection Estimated actual weight 8836K Manifest Reference Number: _____ 18b. Alternate Facility (or Generator) U.S. EPA ID Number Facility's Phone: _____ 18c. Signature of Alternate Facility (or Generator) Month Day Year 19. Hazardous Waste Report Management Method Codes (i.e., codes for hazardous waste treatment, disposal, and recycling systems) 1. H132 2. 3. 4. | | | | | | | |
| | 20. Designated Facility Owner or Operator: Certification of receipt of hazardous materials covered by the manifest except as noted in Item 18a Printed/Typed Name Robert A Klode Signature | | | | | | | |
| | Month Day Year 06 25 10 | | | | | | | |

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|--|--|--|----------------|---|---|----------------------------|-------------------|-----------------|
| UNIFORM HAZARDOUS WASTE MANIFEST | | 1. Generator ID Number MEP000018522 | 2. Page 1 of 1 | 3. Emergency Response Phone 877-246-0447 | 4. Manifest Tracking Number 003974028 JJK | | | |
| 5. Generator's Name and Mailing Address HRC Village at Little Falls LLC 100 Commercial St. Portland, ME 04101 207-858-4122 | | | | Generator's Site Address (if different than mailing address) 7 Depot St South Windham, ME 04062 | | | | |
| 6. Transporter 1 Company Name Smartech | | | | U.S. EPA ID Number MEP000006625 | | | | |
| 7. Transporter 2 Company Name | | | | U.S. EPA ID Number | | | | |
| 8. Designated Facility Name and Site Address LARA Chemical Services, LLC 1400 Balmer Road Rochester City, NY 14617 716-754-2531 | | | | U.S. EPA ID Number NYD0043635879 | | | | |
| Facility's Phone: | | | | | | | | |
| GENERATOR | 9a. HM | 9b. U.S. DOT Description (including Proper Shipping Name, Hazard Class, ID Number, and Packing Group (if any)) | | 10. Containers No. Type | | 11. Total Quantity | 12. Unit Wt./Vol. | 13. Waste Codes |
| | 1. | PC, LIQUID, Waste Perchlorinated Biphenyls, Solid Residue, 2, 8 | | 001 CM | | EST 1530 | K | 15702 |
| | 2. | | | | | | | |
| | 3. | | | | | | | |
| | 4. | | | | | | | |
| 14. Special Handling Instructions and Additional Information 1. To call off call with PCBs Profile #N1 300759 SR = 93332E-1 91640505 used 9589K Out of Service Date 6-15-10 | | | | | | | | |
| 15. GENERATOR'S/OFFEROR'S CERTIFICATION: I hereby declare that the contents of this consignment are fully and accurately described above by the proper shipping name, and are classified, packaged, marked and labeled/placarded, and are in all respects in proper condition for transport according to applicable international and national governmental regulations. If export shipment and I am the Primary Exporter, I certify that the contents of this consignment conform to the terms of the attached EPA Acknowledgment of Consent. I certify that the waste minimization statement identified in 40 CFR 262.27(a) (if I am a large quantity generator) or (b) (if I am a small quantity generator) is true. | | | | | | | | |
| Generator's/Officer's Printed/Typed Name Stephen A. Etzel | | | | Signature <i>[Signature]</i> | | Month Day Year 06 24 10 | | |
| TRANSPORTER | 16. International Shipments <input type="checkbox"/> Import to U.S. <input type="checkbox"/> Export from U.S. Port of entry/exit: _____ Transporter signature (for exports only): _____ Date leaving U.S.: _____ | | | | | | | |
| | 17. Transporter Acknowledgment of Receipt of Materials Transporter 1 Printed/Typed Name: <i>Robert Brown</i> Signature: <i>[Signature]</i> Month Day Year: 06 24 10 Transporter 2 Printed/Typed Name: _____ Signature: _____ Month Day Year: _____ | | | | | | | |
| DESIGNATED FACILITY | 18. Discrepancy 18a. Discrepancy Indication Space <input checked="" type="checkbox"/> Quantity <input checked="" type="checkbox"/> Type ADD 8007 <input type="checkbox"/> Residue <input type="checkbox"/> Partial Rejection <input type="checkbox"/> Full Rejection <i>Other est. Actual Rec'd 9589K</i> Manifest Reference Number: _____ 18b. Alternate Facility (or Generator) U.S. EPA ID Number: _____ Facility's Phone: _____ 18c. Signature of Alternate Facility (or Generator) Month Day Year: _____ | | | | | | | |
| | 19. Hazardous Waste Report Management Method Codes (i.e., codes for hazardous waste treatment, disposal, and recycling systems) 1. H132 2. 3. 4. | | | | | | | |
| | 20. Designated Facility Owner or Operator: Certification of receipt of hazardous materials covered by the manifest except as noted in Item 18a Printed/Typed Name: <i>Robert Kluck</i> Signature: <i>[Signature]</i> Month Day Year: 06 25 10 | | | | | | | |
| | VIL RESP00223 | | | | | | | |
| | DESIGNATED FACILITY TO GENERATOR | | | | | | | |

**Contract for Soil Trans & Disposal at Former Keddy Mill, South Windham, ME:
HRC Village at Little Falls, LLC – June 16th, 2010**

WORK TO BE PERFORMED

1. EPI shall provide sealed body, hazardous waste rolloff containers, double lined, suitable for shipping PCB containing materials.
2. Rolloffs shall be labeled properly and in accordance with EPA and MDEP regulations throughout the project. The containers will be transported to CWM Model City, under approval NYS300769, using a licensed hazardous waste transporter (AmeriTech).

NON-DISCRIMINATION PROVISION

EPI agrees that it will not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin. EPI agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of the non-discrimination clause. EPI will state in all solicitations or advertisements for employment that it is an equal opportunity employer.

OWNER RESPONSIBILITIES:

HRC Village at Little Falls shall either provide a representative at the site to sign Hazardous Waste Manifests and Land Disposal Restriction Notifications, or shall authorize an EPI to sign as agent on Its behalf.

INSURANCE COVERAGE

Contractor shall name Owner and the participating municipalities as Additional Insured Certificate Holders, and shall maintain coverage in effect during the project performance period. Insurance coverage shall include General Liability, Auto Liability, Pollution Liability, MCS-90, and Workers Compensation, as required by Maine statute. A Certificate of Insurance shall be provided to the Owner prior to beginning the work.

INDEPENDENT CONTRACTOR

EPI is and shall perform this agreement as an independent contractor and, as such, shall have and maintain complete control over all of its employees and operations. Neither EPI nor anyone employed by it shall be, represent, act purport to act, or be deemed to be the agent, representative, employee or servant of the Owner.

PAYMENT

Owner shall make payment to EPI as follows:

\$349.00 per ton, with a 16 ton minimum per load, for transportation, disposal and hazardous waste taxes.

50% of the estimated cost prior to receipt of first load at facility NY. The remaining 50% is due within 10 days of Owner being provided with weigh slips and manifest copies for each load.

Estimated 6 Rolloffs @ 18 tons/each = \$37,692.00. 50% downpayment = \$18,846.00.


SEVERABILITY

If any section, subsection or clause of this Agreement shall be adjudged illegal, invalid or unenforceable such illegality, invalidity, or unenforceability shall not affect the Agreement as a whole or any section, subsection, sentence or clause not so adjudged. Maine law shall apply in whole or in part.

VIL_RESP00224

Client:

HRC Village at Little Falls, LLC


Owner's Signature

Renee Lewis
Printed Name

6/16/10
Date

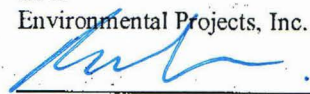
HRC Village at Little Falls, LLC

100 Commercial Street, Portland, ME 04101

(207) 772-7219

EPI:

Environmental Projects, Inc.


EPI Signature

Brian Foss 6/17/10
Printed Name & Title Date

Environmental Projects, Inc.

PO Box 1417, Auburn, Maine 04211

(207) 786-7390

VIL_RESP00225

105 FERC ¶ 61,012
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
William L. Massey, and Nora Mead Brownell.

S.D. Warren Company

Project No. 2941-002

ORDER ISSUING SUBSEQUENT LICENSE

(Issued October 2, 2003)

1. This order issues a subsequent license to S.D. Warren Company (S.D. Warren) for the 1,000-kilowatt (kW) Little Falls Project No. 2941, located on the Presumpscot River in Cumberland County, Maine. In separate orders issued concurrently with this one, we are issuing subsequent licenses to S.D. Warren for the Saccarappa and Mallison Falls Projects Nos. 2897 and 2932, respectively, and new licenses for the Dundee and Gambo Projects Nos. 2942 and 2931, respectively, all of which projects are also on the Presumpscot River. In the order issuing a subsequent license for the Saccarappa Project, we discuss the multi-project proceeding in which the five projects were evaluated, as well as issues common to some or all of the five projects. The present order summarizes the procedural background and addresses remaining issues that pertain to the Little Falls Project alone.

Background

2. Like the other four Presumpscot River projects, the Little Falls Project was constructed in the early 1900's. The original license for the Little Falls Project was issued in 1980,¹ with an expiration date of May 1, 2000. However, in 1996, at S.D. Warren's request, all of the licenses for the Presumpscot River projects were modified to expire on January 26, 2001, to enable a coordinated review at relicensing. See S.D. Warren Company, 74 FERC ¶ 62,036 (1996). The Little Falls Project continues to

¹S.D. Warren, 11 FERC ¶ 62,150 (1980).

operate under the terms and conditions of its existing license until the Commission acts on the applications for relicense.²

3. S.D. Warren filed applications for new licenses for the five Presumpscot River projects on January 22, 1999. S.D. Warren proposes the continued operation of all five of the projects, but does not propose to install any new capacity at any of the projects. S.D. Warren proposes the following environmental measures for Little Falls and the other four projects: (1) continuation of run-of-river operations and daily headpond monitoring; (2) avoidance of impoundment drawdowns during May and June; (3) implementation of impoundment refill procedures after drawdown; (4) institution of operational measures to provide downstream eel passage; (5) implementation of a Recreation Facility Enhancement Plan; and (6) provisions for the protection and mitigation of adverse effects on identified archeological sites. At the Little Falls Project, S.D. Warren also proposes various other measures to enhance and/or protect recreation, aesthetics, and historic resources.

4. The Commission issued a public notice of the applications on April 23, 1999, requesting comments, protests, and motions to intervene. Timely motions to intervene in the multi-project proceeding were filed by the U.S. Department of the Interior (Interior); Friends of the Presumpscot River (Presumpscot Friends); Friends of Sebago Lake; Maine Council of the Atlantic Salmon Federation (Maine Council); the State of Maine, State Planning Office (State Planning Office); and Trout Unlimited.

5. Late motions to intervene were filed by the U.S. Environmental Protection Agency (EPA), Allan Desjardin, and American Rivers. The Commission granted these late-filed motions to intervene on April 14, 2003. In addition, a late motion to intervene was filed by Representative Janice E. Labrecque of the Maine House of Representatives and was granted on April 26, 2002. Presumpscot Friends oppose the relicensing of the Mallison Falls, Little Falls, and Saccarappa Projects.

6. On December 4, 2000, the Commission issued public notice that the applications were ready for environmental analysis and solicited comments, recommendations, and terms and conditions. In response, comments were filed by Interior, State Planning

²The three minor licenses waive applicability of Section 15 of the FPA and S.D. Warren has filed for subsequent licenses. Therefore, under Section 16.21(a) of the Commission's regulations, 18 C.F.R. § 16.21(a), S.D. Warren may continue to operate these minor projects in accordance with the terms and conditions of the minor licenses after they expire, until the Commission acts on its applications.

Office, American Rivers and Presumpscot Friends (jointly), the City of Westbrook, Trout Unlimited, and Friends of Sebago Lake.³ S.D. Warren filed reply comments on April 18, 2001. The issues raised by these comments are discussed more fully in the companion Saccarappa Project order.

7. The Commission staff's multi-project Draft Environmental Impact Statement (DEIS) for the relicensing of the five projects was issued on October 5, 2001. Comments on the DEIS were filed by 12 entities and three individuals, and were considered in preparing the final multi-project EIS (FEIS).

8. On June 26, 2002, the Commission staff issued the FEIS. The alternatives considered in the FEIS are described in the companion Saccarappa Project order. The FEIS concludes that the relicensing of the five Presumpscot River projects, as proposed by the applicant and with the additional staff-recommended measures, would be best adapted to a comprehensive plan for the proper use, conservation, and development of the Presumpscot River. The FEIS considered but rejected the alternative of removing one or more of the minor project dams, for reasons discussed in the Saccarappa Project order. The FEIS finds that fish passage facilities at the five project dams would be warranted in the future, when fish passage at the downstream Cumberland Mills and Smelt Hill dams is achieved,⁴ and recommends that the licensee be required to file a fish passage implementation plan for the projects. The FEIS also recommends that the licensee design and install upstream eel passage at all five projects, and includes the prescription of Interior's Fish and Wildlife Service (FWS) for implementing shutdown periods to provide for downstream eel passage.

9. Other measures recommended by the FEIS for the Little Falls Project include the implementation of a reservoir elevation plan; the undertaking of a recreational use monitoring study; and the development of a recreational facilities enhancement plan and a historic properties management plan (HPMP).

³Interior included comments from the Fish and Wildlife Service (FWS) and the National Park Service (NPS). The State of Maine included comments from the Maine Department of Marine Resources (Maine DMR), the Maine Atlantic Salmon Commission (Maine ASC), and the Maine Department of Inland Fisheries and Wildlife (Maine DIFW).

⁴ The Smelt Hill dam was removed in October 2002.

10. The Commission has considered all of the comments and interventions filed in these proceedings in determining whether, and under what conditions, to issue a subsequent license for the Little Falls Project.

Project Description

11. The Little Falls Project is located on the Presumpscot River in southern Maine near the Towns of Gorham and Windham in Cumberland County. The Presumpscot River originates at the outlet of Sebago Lake and extends approximately 25 miles to the Atlantic Ocean at Casco Bay. Seven tributaries feed the Presumpscot River between Sebago Lake and the Saccarappa Project, the most downstream of the projects.

12. The five projects span a river reach of about 12 miles from Windham (about three miles downstream of Sebago Lake) to Westbrook, Maine (about 10 miles upstream from Casco Bay). The Little Falls Project, at river mile (RM) 16.9, is the middle of the five Presumpscot River projects, less than one-half mile upstream of the Mallison Falls Project and 1.7 miles downstream of the Gambo Project. S.D. Warren's hydroelectric projects operate continuously to generate electricity that is used at S.D. Warren's paper mill at Westbrook. Capacity and energy in excess of that used by the mill is sold on the open market. The Little Falls Project generates approximately 4,200,000 kilowatt-hours (kWh) of electricity annually.

13. The Little Falls Project consists of the following facilities: (1) a 331-foot-long, 14-foot-high, reinforced concrete and masonry dam incorporating a 160-foot-long spillway section, 101.5 foot-long spillway and sluice gate section, and a 70.5 foot-long intake structure; (2) a 1.7-mile-long impoundment extending from the Little falls dam upstream to the Gambo dam, with a surface area of approximately 29 acres at normal headpond elevation of 108.7 feet USGS; (3) a 25-foot-wide by 95-foot-long masonry powerhouse which is integral to the dam; (4) four vertical Francis turbines direct-connected to generators, each with an installed capacity of 250 kW for a total project installed capacity of 1,000 kW; (5) a 300-foot-long bypass reach between the dam and the powerhouse tailwaters;⁵ and (6) an 11-kV transmission line tied into the Gambo Project transmission line.

14. The Little Falls Project is operated in a run-of-river mode so that the impoundment is maintained at near constant levels year round. The powerhouse is manually operated and utilizes flows that originate at S.D. Warren's upstream Eel Weir Project No. 2984

⁵The lower 100 feet of the bypass reach is backwatered by the project tailwaters.

(not subject to relicensing in this proceeding) at the outlet of Sebago Lake and various minor tributaries to the Presumpscot River downstream from Sebago Lake, and that pass through intermediate projects. As currently licensed, there are no required minimum flow releases to the bypass reach at the Little Falls Project.

Miscellaneous Statutory Requirements

15. In issuing this license, we have considered numerous applicable statutory requirements. These include: water quality certification under Section 401 of the Clean Water Act, 33 U.S.C. § 1341(a)(1); Section 307 of the Coastal Zone Management Act, 16 U.S.C. § 1456(c)(3)(A) (CZMA); Essential Fish Habitat under Section 305(b)(2) of the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. § 1855(b)(2) (Fishery Conservation Act); Section 7(a)(2) of the Endangered Species Act, 16 U.S.C. § 1536(a)(2) (ESA); historic properties under Section 106 of the National Historic Preservation Act (NHPA); and Sections 18 (fishway prescriptions) and 10(a)(2)(A) (comprehensive plans) of the Federal Power Act (FPA). The Saccarappa Project Order contains a full explanation of how these statutory requirements are satisfied in the issuance of new or subsequent licenses for the five projects. We summarize that explanation here.

16. The single water quality certification issued by the Maine Department of Environmental Protection and the single fishway prescription submitted by FWS, in each case for all five projects, are attached to each license order as Appendices A and B, respectively.⁶ Each license contains an article reserving the Commission's authority to require such fishways as Interior may prescribe under Section 18 in the future. No consistency certification is necessary under the CZMA, because the projects are not in the Maine coastal zone and Maine has not defined an area outside the coastal zone for reviewing federal licensed activities that may affect the coastal zone. The National Marine Fisheries Service has not commented on or filed recommendations for the applications in respect to the Fishery Conservation Act, and we conclude that relicensing the projects as proposed and with staff's recommendations would have no adverse effect on essential fish habitat. The small whorled pogonia plant, the only federally-listed threatened or endangered species occurring in any of the project areas has been found at the Dundee Project, and we find that the relicensing of the Dundee Project, with the

⁶ As to the fishway prescription, each license contains the general provisions applicable to all five projects and the provisions applicable to that specific project. For ease of administering the licenses, we have altered the numbering and placement of tables as submitted by FWS.

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conditions described in that order, will not affect this species. The Commission has satisfied its responsibilities under Section 106 of the NHPA by executing with the Maine State Historic Preservation Officer a Programmatic Agreement for managing historic properties that may be affected by the relicensing of the projects. Finally, we find that issuance of the licenses does not create an inconsistency with any of the relevant federal and state comprehensive plans that have been filed with the Commission.

Dam Removal

17. A number of non-governmental agencies and individuals advocate the removal of the Saccarappa, Mallison Falls, and Little Falls dams. The staff evaluated several dam removal scenarios in the FEIS. We conclude that the removal of any of these three dams is not warranted. Our analysis and rationale is contained in the Saccarappa Project Order.

Recommendations of Federal and State Fish and Wildlife Agencies Under FPA Section 10(j)

18. Section 10(j) of the FPA, 16 U.S.C. § 803(j)(1), requires the Commission, when issuing a license, to include license conditions based upon recommendations of federal and state fish and wildlife agencies submitted pursuant to the Fish and Wildlife Coordination Act, 16 U.S.C. §§ 661, et seq., to "adequately and equitably protect, mitigate damages to, and enhance, fish and wildlife (including related spawning grounds and habitat)" affected by the project. If the Commission believes that any such recommendation may be inconsistent with the purpose and requirements of Part I of the FPA, or other applicable law, Section 10(j)(2) of the FPA, 16 U.S.C. § 803(j)(2), requires the Commission and the agencies to attempt to resolve such inconsistencies, giving due weight to the recommendations, expertise, and statutory responsibilities of such agencies. If the Commission still does not adopt a recommendation, it must explain how the recommendation is inconsistent with Part I of the FPA or other applicable law and how the conditions imposed by the Commission adequately and equitably protect, mitigate damages to, and enhance fish and wildlife resources.

19. Only FWS filed Section 10(j) recommendations for the Presumpscot River projects.⁷ The license issued here for the Little Falls Project contains conditions

⁷ The FWS filed one set of recommendations under Section 10(j) pertaining to all five of the projects.

consistent with recommendations for: (1) run-of-river operation; (2) a project operations and flow monitoring plan; and (3) recreation use monitoring.⁸

20. Commission staff made an initial determination that some of the recommendations of FWS were inconsistent with the substantial evidence standard of Section 313(b) and the comprehensive planning and public interest standards of Sections 4(e) and 10(a) of the FPA. In the DEIS, staff concluded that FWS's recommendations for (1) year-round minimum flows in the Dundee, Mallison Falls, and Gambo bypassed reaches; and (2) shoreline management plans at each of the five projects were inconsistent with Part I of the FPA. Commission staff concluded that there was no evidence that these measures are needed, that they would not provide environmental benefits commensurate with their costs, and that the alternative measures Commission staff recommended would adequately protect fish and wildlife.

21. By letter dated October 1, 2001, Commission staff advised FWS of its preliminary determinations. In an attempt to resolve the apparent inconsistencies, Commission staff met with representatives of FWS, the Maine DEP, and S.D. Warren on February 19, 2002. Below, we discuss Commission staff's attempt to resolve the apparent inconsistencies for the Little Falls Project.

22. FWS recommends that S.D. Warren develop a Shoreline Management Plan (SMP) that would include all licensee-owned lands abutting the project within 500 feet of the high water elevation that are determined to be needed for project-related purposes, such as fish and wildlife habitat protection; providing public access for recreation; or protecting sensitive, unique, or scenic areas.⁹ However, FWS did not identify any such lands. Commission staff did not agree with the FWS recommendation for a SMP, including the 500-foot buffer zone, explaining in Section 4.3.5 of the DEIS, that a SMP is typically required only for major projects when there is a need to resolve a current

⁸ FWS recommends recreation use monitoring and filing a report on recreation use every 6 years. In the FEIS, Commission staff properly determined that these two recommendations do not fall within the scope of Section 10(j). Under Section 10(a) of the FPA, we are adopting recreation use monitoring and reporting provisions for the Little Falls Project, as recommended by Commission staff, which differ slightly from those recommended by FWS (Article 409).

⁹ This recommendation falls under Section 10(j) only to the extent that it relates to the protection of, mitigation of damage to, and enhancement of, fish and wildlife, not to the extent that it relates to recreational or other purposes.

resource issue (e.g., when a threatened or endangered species is present near areas of project recreational use).

23. At the Section 10(j) meeting, FWS indicated that Commission staff's recommendation not to require a SMP for the Little Falls Project does not adequately consider either the changing resource values of the concerned agencies, or the expected increase in recreational use that would result from increased minimum flows in the river and improved water quality. In addition, FWS indicated that staff's SMP recommendation does not consider the Casco Bay watershed planning efforts. FWS indicated that it was more concerned that the scope of the planning effort involves all five of the Presumpscot River projects than with the specific width of the buffer zone. Commission and FWS staff agreed that the primary goal of a SMP would be to ensure that S.D. Warren continues its involvement in the Casco Bay Estuary Project (CBEP) planning process.

24. Neither FWS nor any other entity provided new information at or after the Section 10(j) meeting to justify the need for an SMP at the Little Falls Project to protect, enhance, or mitigate damage to fish and wildlife. Because no need has been shown for an SMP at the Little Falls Project for these purposes, we conclude that the recommendation for the development and implementation of an SMP would be inconsistent with the comprehensive development standard of Section 10(a) of the FPA and with the substantial evidence standard of Section 313(b) of the FPA. Licensing the project as proposed, with staff's recommendations and other agency conditions, will adequately protect, enhance, and mitigate damages to fish and wildlife, by providing for run-of-river operation, management of impoundment levels, and fish passage. Therefore, we will not require development of such a plan.¹⁰

Applicant's Plans and Capabilities

25. In accordance with Sections 10(a)(2)(C) and 15 of the FPA, 16 U.S.C. §§ 803(a)(2)(C) and 808, we have evaluated S.D. Warren and its record as a licensee with respect to the following: (A) compliance history and ability to comply with the new

¹⁰ Although recreational purposes and uses are not within the scope of Section 10(j), coordination with the CBEP in the development of any revised final recreation plan for the project is a reasonable measure under Section 10(a) to ensure that S.D. Warren remains cognizant of local planning efforts as they relate to project recreational facilities and opportunities. In Article 408, we include the CBEP as an entity to be consulted in the preparation of the final recreational plan.

Project No. 2941-002

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license; (B) safe management, operation, and maintenance of the project; (C) need for power; and (D) transmission service.

A. Compliance History and Ability to Comply with the New License

26. We have reviewed the relicense application and S.D. Warren's record of compliance with the terms and conditions of the existing license. We find that S.D. Warren's overall record of making timely filings and compliance with its license is satisfactory.

B. Safe Management, Operation, and Maintenance of the Project

27. We reviewed S.D. Warren's management, operation, and maintenance of the Little Falls Project. The project is exempt from the requirements of Part 12, Subparts C – Emergency Action Plans (EAP), of the Commission's regulations. In addition, the project is not subject to Part 12, Subpart D – Inspection by an Independent Consultant, of the Commission's regulations. We find that the project works are safe and that the owner's record of managing, operating, and maintaining these facilities presents no reason to believe that the applicant cannot continue to safely manage, operate, and maintain these facilities. The continued operation of the Little Falls Project would pose no threat to public safety if operated and maintained according to good engineering practices and the normal regulations governing our hydroelectric licenses.

C. Need for Power

28. We assessed the need for power by reviewing the needs in the operating region in which the project is located - southern Maine, within the Northeast Power Coordinating Council (NPCC) region of North American Electric Reliability Council (NERC). NERC annually forecasts electrical supply and demand in the nation and the region for a 10-year period. NERC's report¹¹ on annual supply and demand projections indicates that, for the period 2000-2009, the demand for electric energy in the NPCC region will grow at an average rate of 1.2 percent annually.

29. The Little Falls Project generates about 4,200,000 kWh annually with an installed capacity of 1,000 kW. All of the power from the project is used at S.D. Warren's paper

¹¹ Reliability Assessment 2000-2009: The Reliability of Bulk Electric Systems in North America, NERC, October 2000.

mill. The mill's annual electricity demand is about 180,000,000 kWh and the mill's load demand is about 21,000 kW.

30. If licensed, the project would continue to meet part of S.D. Warren's power needs. The project would displace existing and planned nonrenewable fossil-fueled generation, which contributes to the production of nitrous oxides and sulfurous oxides that contribute to air pollution, as well as carbon dioxide, which contributes to the phenomenon of global warming.

31. We find that the project power would continue to be useful in meeting part of the need for power in southern Maine in both the short and long term.

D. Transmission Service

32. The project includes: (1) a 2.3-kV generator lead; (2) a 2.3-kV/11-kV step-up transformer; and (3) an 11-kV transmission line joining the Gambo Project transmission line. S.D. Warren proposes no new transmission facilities at the project, and the project, as proposed, would not affect the existing licensed transmission facilities.

Comprehensive Development

33. Sections 4(e) and 10(a)(1) of the FPA, 16 U.S.C. §§ 797(e) and 803(a)(1), respectively, require the Commission, in acting on license applications, to give equal consideration to the developmental and environmental uses of the waterway on which a project is located. Any license issued shall be such as in the Commission's judgment will be best adapted to a comprehensive plan for improving or developing a waterway or waterways for all beneficial public uses. The decision to license this project, and the terms and conditions included herein, reflect such consideration.

34. In determining whether a proposed project will be best adapted to a comprehensive plan for developing a waterway for beneficial public purposes, pursuant to Section 10(a)(1) of the FPA, the Commission considers a number of public interest factors, including the economic benefits of project power. Under the Commission's approach to evaluating the economics of hydropower projects, as articulated in Mead Corp., 72 FERC ¶ 61,027 (1995), we employ an analysis that uses current costs to compare the costs of the project and likely alternative power, with no forecasts concerning potential future inflation, escalation, or deflation beyond the license issuance date. Our economic analysis provides a general estimate of the potential power benefits and costs of a project and reasonable alternatives to project-generated power. The estimate helps to support an informed decision concerning what is in the public interest with respect to a proposed license. In making our decision, we consider the project

power benefits, both with the applicant's proposed mitigation and enhancement measures and with our modifications and additions to the applicant's proposal.

35. Under the no-action alternative, the Little Falls Project would generate an average of 4,200,000 kWh of electricity annually, have an annual power value of \$169,970 (40.47 mills/kWh), and a total annual cost of \$165,620 (39.43 mills/kWh). This results in a net annual benefit of \$4,350 (1.04 mills/kWh).

36. As proposed by S.D. Warren, the Little Falls Project would generate an average of 4,081,000 kWh of electricity annually, have an annual power value of \$165,150 (40.47 mills/kWh), and a total annual cost of \$186,670 (45.74 mills/kWh). This results in a net annual benefit of -\$21,520 (-5.27 mills/kWh).

37. As proposed by S.D. Warren and with additional staff-recommended and agency-required measures, the Little Falls Project would generate an average of 3,491,000 kWh of electricity annually. The project would have an annual power value of \$141,270 (40.47 mills/kWh) and a total annual cost of \$673,070 (192.80 mills/kWh). This results in a net annual benefit of -\$531,800 (-152.33 mills/kWh).

38. As discussed in the companion Saccharappa Project Order, anadromous fish passage at the Little Falls Project is dependent on both the installation of fish passage facilities downstream at Cumberland Mills dam, an uncertain prospect, and the phased approach to fish passage installation based on the presence of specified trigger populations of target species passed at the Saccharappa Falls Project dam. Therefore, it is possible that the prescribed anadromous fish passage facilities at the Little Falls dam will not be constructed. Under that scenario, the Little Falls Project would generate an average of 3,724,000 kWh of electricity annually. The project would have an annual power value of \$150,700 (40.47 mills/kWh) and a total annual cost of approximately \$195,780 (75.85 mills/kWh). Therefore, the resulting annual net benefit of the Little Falls Project without the fish passage facilities would be -\$45,080 (-35.38 mills/kWh).

39. Under the dam removal alternative, S.D. Warren would no longer use the Little Falls Project to generate power. Hence, the annual power benefit would be the cost of purchasing replacement energy, or -\$169,970. The only annual costs would be those